

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Geographic Partitioning and Spectrum)
Disaggregation by Commercial Mobile)
Radio Services Licensees)

WT Docket No. 96-148

Implementation of Section 257 of the)
Communications Act -)
Elimination of Market Entry Barriers)

GN Docket No. 96-113

To: The Commission

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REPLY COMMENTS OF CAROLINA INDEPENDENTS

The Carolina Independents, by their attorneys, submit the following response to comments in the above-captioned proceeding. The Carolina Independents are thirty-one small, independent telephone companies in North and South Carolina who are limited partners of the partnership which holds the PCS license for MTA 06 Block B.^{1/}

The comments filed in this proceeding strongly support the following points made by the Carolina Independents in the initial comment cycle: first,

^{1/} See Appendix A for a list of the Carolina Independents.

Noted
Date: 8/30/96

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commenters support the Commission's proposal to facilitate partitioning by offering a choice between different build-out options; second, commenters urge the Commission to retain its existing, flexible rule which allows for partitioning along geopolitical boundaries, rather than requiring partitioning along county lines.

I. COMMENTERS SUPPORT THE COMMISSION'S PROPOSED BUILD-OUT STANDARDS FOR PARTITIONED AREAS

The substantial majority of commenters addressing construction obligations joined the Carolina Independents in supporting the Commission's proposed alternative methods by which a partitionee may meet its buildout requirements.^{2/} U S West agrees with the Independents that requiring partitionees to offer service to one-third of the population in a partitioned area could result in no service at all to such areas, in light of the difficulty of meeting such a requirement in rural regions. U S West Comments, at 11-13.

The fact is that any construction requirement at all for partitionees would impose greater obligations in partitioned trading areas than in nonpartitioned areas. In nonpartitioned license areas, only the initial licensee must meet certain population

^{2/} See Notice of Proposed Rulemaking, FCC 96-287, WT Docket No. 96-148, GN Docket No. 96-113, released July 15, 1996, ¶¶ 33-34 ("NPRM"); Comments of CTIA at 10-11; GTE Service Corp. at 5; Omnipoint at 6; PCIA at 7; U S West at 10-13; Western Wireless at 7; cf. Comments of NextWave at 5 (parties should be permitted to allocate compliance responsibilities).

coverage requirements, which can be accomplished in many cases by simply building out one populous city; whereas application of the current rule to partitioned license areas would often obligate the licensee to construct facilities in areas where extremely low population densities and terrain considerations may make the provision of service within the designated time frames impractical. The Carolina Independents instead urge the Commission either to require only the original licensee to make certifications or demonstrate buildout, or to permit the initial licensee and partitionees to allocate buildout obligations among themselves. Accord, Sprint Spectrum Comments, at 11; PCIA Comments at 7. In this competitive market environment, economic incentives will ensure that partitionees maximize coverage areas in order to enhance the value of their service to subscribers and to recoup the expense of obtaining their licenses.

II. FLEXIBILITY IS REQUIRED IN SETTING PARTITIONED LICENSE BOUNDARIES

Commenters also agree with the Carolina Independents that the Commission should abandon its attempt to require that any broadband PCS license partitions must be established along county lines.^{3/} Many small telephone companies

^{3/} See NPRM ¶¶ 18-19; Comments of ITA at 5; Omnipoint at 9; PCIA at 3-4; PCS Wisconsin at 2; Sprint Spectrum at 4-5; SR Telecom Inc. at 8-10; USTA at 3-7; U S West at 16-17; Western Wireless at 5.

are interested in supplementing their existing wireline services with PCS. Such a restriction would make it difficult for these companies to establish partitioned service areas contiguous with their areas of wireline operations, because the wireline operations often do not follow county lines. The proposed rule therefore would create a barrier to entry for such small telephone companies. Instead, the FCC should retain and clarify its existing rule, which indicates that geopolitical boundaries other than county boundaries may be employed where practical. As USTA notes, "In many cases, the efficiencies of utilizing county lines . . . may be outweighed by the benefits to the public interest obtained by arranging a service area which more closely relates to established patterns of service demand, available infrastructure, or available spectrum." USTA Comments at 7.

The Commission's need for discernible boundaries and related information and flexibility in the establishment of such boundaries can both be achieved. As proposed in the Comments of the Carolina Independents, parties should be permitted to adopt boundaries other than county lines if they make available, and certify as accurate, detailed service area maps and information as to the population count for each partitioned area.

CONCLUSION

The record established in this proceeding strongly supports the position of the Carolina Independents that the Commission should adopt its proposal to offer a choice between different buildout options for partitioned service areas, and should not restrict partitioned area boundaries to county lines.

Respectfully submitted,

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APPENDIX A

CAROLINA INDEPENDENTS

Atlantic Telephone Membership Corp.
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Chesnee Telephone Company
Chester Telephone Company
Citizens Telephone Company
Concord Telephone Company
Farmers Telephone Cooperative, Inc.
Fort Mill Telephone Company
Hargray Telephone Company
Hart Telephone Company
Heath Springs Telephone Company
Home Telephone Company
Horry Telephone Company
Lancaster Telephone Company
Lexington Telephone Company
Lockhart Telephone Company
North State Telephone Company
Palmetto Rural Tel. Coop., Inc.
Piedmont Rural Tel. Coop., Inc.
Piedmont Telephone Membership Corp.
Pond Branch Telephone Company
Ridge Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Coop., Inc.
Star Telephone Membership Corp.
Skyline TMC
Surry Telephone Membership Corp.
Tri-Country Telephone Membership Corp.
West Carolina Rural Tel. Coop., Inc.
Yadkin Valley Telephone Membership Corp.

CERTIFICATE OF SERVICE

I, Kathy Bates, a legal secretary with the law firm of Hogan & Hartson L.L.P., hereby certify that on this 30th day of August, 1996, a copy of the foregoing Reply Comments of the Carolina Independents was delivered by U.S. first class mail, postage prepaid, except where otherwise indicated, to the parties listed below.



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